

H.R. 1524--Messrs. Rousselot and Matsui

Normalization Requirements for Public Utility Property and
Special Transition Rule

Present Law

For property placed in service after 1980, public utilities generally are allowed the investment credit and accelerated cost recovery only if the benefits of the investment credit and accelerated cost recovery are normalized for ratemaking purposes. For property placed in service before 1981, similar rules apply to investment credits and accelerated depreciation, but certain companies are exempted from the normalization requirement.

Normalization generally requires that tax benefits be taken into account for ratemaking purposes over the service life of the asset that generates the benefits. For this purpose, the investment tax credit may be taken into account either by reducing cost of service by a ratable portion of the credit or ratably restoring the credit to the rate base. In the case of cost recovery or depreciation deductions, a normalization method of accounting results in the benefits of the tax deferrals from accelerated deductions being reflected in the rates charged to customers as a reduction in capital expenses over the period of tax deferral.

Provisions of the Bill

The bill would restate and make more specific the normalization rules relating to the investment credit (sec. 46(f) and accelerated depreciation (sec. 167(l))). It is anticipated that the bill will be amended to make corresponding amendments to the normalization rules for accelerated cost recovery (sec. 168(e)(3)). The bill would also give the Treasury Department specific authority to provide regulations setting forth conditions under which ratemaking projections and adjustments are inconsistent with the normalization rules. The amendments generally would apply to taxable years beginning after December 31, 1979.

The bill would also provide a special transition rule. Under the special rule a ratemaking projection or adjustment that violated the normalization requirements would not result in a public utility's loss of eligibility for the investment credit or accelerated depreciation if the projection or adjustment (1) applied for a period ending before March 1, 1980, (2) was included in an order entered by a public service or public utility commission before March 13, 1980, and (3) was used to determine the amount of rates which were ordered to be collected or refunds which were ordered to be made.

The transitional rule is designed to benefit Pacific Telephone and Telegraph Company, General Telephone Company of California, and Southern California Gas Company.

Revenue Effect

The permanent changes made by the bill would have no revenue effect, assuming that rate orders in effect for periods ending after March 1, 1980, are in compliance with the normalization rules as to be revised by the bill.

If the orders of the California Public Utilities Commission applicable prior to March 1, 1980, to the three utilities which would be benefitted by the special rule do not comply with the current normalization rules in the Code, the special rule in the bill would result in a revenue loss of approximately \$2,200 million attributable to accounting periods prior to March 1, 1980. Approximately \$117 million of this amount has been paid into the Treasury and may be the subject of claim for a refund. If the transitional rule is enacted, such amount would probably be repaid during fiscal year 1983. The remainder of the \$2,200 million revenue loss generally would occur in the fiscal year or years in which determinations of tax liability for the affected companies would otherwise become final. Such losses would probably occur in fiscal years after 1987 because of the timing of the audit process and delays of presumed litigation.

If these orders do comply with the current normalization rules, the special rule in the bill would result in no revenue loss.

Prior Congressional Action

The provisions of H.R. 1524 were considered by the committee in H.R. 6806 (96th Congress), which was reported favorably to the House on July 30, 1980. H.R. 6806 was passed by the House on September 24, 1980, but was not acted on by the Senate in the 96th Congress.

